

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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**FISCAL IMPACT STATEMENT**

**LS 6417**

**BILL NUMBER:** HB 1196

**NOTE PREPARED:** Nov 22, 2004

**BILL AMENDED:**

**SUBJECT:** Limited Liability for Pain and Suffering Damages.

**FIRST AUTHOR:** Rep. Thompson

**BILL STATUS:** As Introduced

**FIRST SPONSOR:**

**FUNDS AFFECTED:**     **GENERAL  
DEDICATED  
FEDERAL**

**IMPACT:** No Fiscal Impact

**Summary of Legislation:** This bill limits a pain and suffering damages award to \$500,000 for a cause of action that accrues after June 30, 2005, and before January 1, 2008, and \$700,000 for a cause of action that accrues after December 31, 2007. It also provides that the limits do not apply to an action for medical malpractice.

**Effective Date:** July 1, 2005.

**Explanation of State Expenditures:** This bill limits pain and suffering damages in civil actions. Since the state's liability is already capped, this bill will not impact the state's possible liability in civil actions.

*Background:* State liability in civil actions is governed by the Tort Claims Act. The limitation as set forth in IC 34-14-3-4 is as follows:

- (a) In any claim against a governmental entity, the aggregate liability may not exceed:
  - (1) for injury to or death of one person in any one occurrence:
    - (A) \$300,000 for a cause of action that accrues before January 1, 2006;
    - (B) \$500,000 for a cause of action that accrues on or after January 1, 2006, and before January 1, 2008; or
    - (C) \$700,000 for a cause of action that accrues on or after January 1, 2008; and
  - (2) for injury to or death of all persons in that occurrence, \$5,000,000.
- (b) A governmental entity or an employee of a governmental entity acting within the scope of employment is not liable for punitive damages.

**Explanation of State Revenues:** The state is entitled to 75% of any punitive damage award in a civil action under IC 34-51-3. Since pain and suffering damages are not considered punitive damages, there will be no impact on state revenue from the punitive damage awards.

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:**

**State Agencies Affected:**

**Local Agencies Affected:**

**Information Sources:**

**Fiscal Analyst:** Adam Brown, 317-232-9854.